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Paper No. 23

ADDISON WOODBURY LEARNED III  
P.O. BOX 164  
N ABINGTON, MA 02351

**COPY MAILED**

**MAY 13 2002**

In re Application of :  
Learned III :  
Application No. 09/233,805 :  
Filed: March 10, 1998 :  
For: ISOKINETIC PAINT BRUSH HANDLES :

**OFFICE OF PETITIONS**  
**ON PETITION**

This is a decision on the **renewed** petition under 37 CFR 1.137(a), filed February 20, 2002, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration or petition under 37 CFR 1.137(a) must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed September 24, 1999, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 25, 1999. A Notice of Abandonment was mailed on May 16, 2000.

Petitioner has presented evidence to establish non-receipt of the Notice of Allowance. However, petitioner has only partially addressed the period of delay from the time petitioner learned of the abandonment until petitioner filed a petition on March 28, 2001.

The previous two decisions stated, "When did petitioner first discover the existence of the Notice of Allowability and that the application was abandoned? Why did petitioner take so long to file a petition to revive?"

Petitioner has only partially addressed the above questions. Office file records indicate that Mark Spisich called petitioner on August 7, 2000, and informed him that the application was abandoned. As stated above, a petition was not filed until March 28, 2001, more than 33 weeks later. Petitioner has submitted evidence that he sent in drawings on February 13, 2001, but he did not file a petition on that date. Petitioner has not provided evidence to explain why his failure to file the petition earlier is unavoidable. Petitioner must prove that the entire delay in filing the petition was unavoidable. Petitioner has provided evidence that the delay from December 25, 1999, until the time he learned of the abandonment was unavoidable, but has failed to provide such proof regarding the period of delay from the time he learned of the abandonment until he filed a petition.

Any renewed petition under 37 CFR 1.137(a) must answer the following questions:

- (1) After learning that the application was being considered as abandoned by the Office, what action did petitioner take during the week of August 7-13, 2000?
- (2) What action did petitioner take during the week of August 14-20?
- (3) What action did petitioner take during the week of August 21-27?
- (4) What action did petitioner take during the week of August 28-September 3?
- (5) What action did petitioner take during the week of September 4- September 10?
- (6) What action did petitioner take during the weeks of September 11-October 11?
- (7) What action did petitioner take during the weeks October 12-November 12?
- (8) What action did petitioner take during the weeks of November 13-December 13?
- (9) What action did petitioner take during the weeks of December 14-December 31?
- (10) What action did petitioner take during the weeks of January 1, 2001- February 13, 2001?

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

By facsimile: (703) 308-6916  
Attn: Office of Petitions

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Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.



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